

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT SPENCER,)	CASE NO. 1:18-cv-1764
)	
Plaintiff,)	
)	JUDGE DONALD C. NUGENT
v.)	
)	
KENNETH FALZINI, <i>et al.</i> ,)	CONSENT MOTION FOR EXTENSION
)	OF TIME FOR DEFENDANTS TO
Defendants.)	PLEAD OR MOVE IN RESPONSE TO
)	THE COMPLAINT OF PLAINTIFF
)	ROBERT SPENCER

Defendants Kenneth Falzini, David Simia, Kevin Price, Matthew Berdysz, and the City of Garfield Heights, by and through undersigned counsel, respectfully move this honorable Court for an order granting Defendants a further one-week extension of time to plead or move in response to the Complaint of Plaintiff Robert Spencer.

For cause, Defendants state that they received waivers of service from Plaintiff's counsel on August 10, 2018 and executed the same on August 13, 2018. By operation of Fed. R. Civ. P. 4(d)(3), Defendants' answer or Fed. R. Civ. P. 12 motion was originally due by October 9, 2018. To facilitate ongoing settlement negotiations, Defendants initially sought a one-week extension to October 16, 2018. This Court granted Defendants' first motion for extension of time on October 4, 2018.

Since this Court granted Defendants' first motion for an extension of time, the Parties have continued to make significant progress toward a potential resolution. Defendants have also prepared their initial response to Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12 for timely filing by October 16, but understand that filing a pre-answer motion at this time could negatively

impact settlement prospects by forcing Plaintiff to incur additional fees and costs to draft and file a brief in opposition.

To avoid the necessity of Plaintiff preparing a response to Defendants' anticipated pre-answer motion while engaging in settlement discussions, Defendants respectfully request a second one-week extension to plead or move in response to Plaintiff's Complaint. If granted, this would require Defendants to file their answer or pre-answer motion by October 23, 2018, which is one day after the scheduled case management conference. Undersigned counsel for Defendants has consulted with counsel for Plaintiff regarding the relief requested herein, and by his signature below Plaintiff's counsel consents to the same.

Accordingly, Defendants respectfully request that this honorable Court enter an order granting Defendants leave to plead or move in response to Plaintiff's Complaint until October 23, 2018.

Respectfully submitted,

/s/ Patrick Kabat

Subodh Chandra (Ohio Bar No. 0069233)

Patrick Kabat (N.Y. Bar No. 5280730)

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*Counsel for Defendants Kenneth Falzini,
David Simia, Kevin Price, Matthew Berdysz,
and the City of Garfield Heights*

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of October, 2018, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Daniel J. Rudary
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David Simia, Kevin Price, Matthew Berdysz,
and the City of Garfield Heights*

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